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Paper No. 5

SEP 10 2001

OFFICE OF PETITIONS

In re Application of
Smith
Application No. 09/766,256
Filed: January 18, 2001
Attorney Docket No. BSE 301

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: DECISION GRANTING
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: PETITION
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This is a decision on the petition filed May 3, 2001 (certificate of mailing date April 30, 2001), requesting that the above-identified application be accorded a filing date of January 18, 2001.

The application was filed on January 18, 2001. However, on February 28, 2001, the Office of Initial Patent Examination mailed a "Notice" stating that the application had been accorded a filing date of January 18, 2001, but that a drawing of Figure 9 appeared to have been missing. In addition, the Notice required the filing of an oath or declaration and a late filing fee for oath or declaration of \$65.00.

In response, on May 3, 2001 (certificate of mailing date April 30, 2001), 1 sheet of drawing containing Figure 9 and the instant petition and petition fee were filed. Petitioner alleges that 11 of 11 sheets of drawings were filed on January 18, 2001. The Office asserts only 10 of 11 sheets of drawings were filed.

A review of the application file reveals that 11 of 11 sheets of drawings, including the allegedly missing Figure 9, are present.

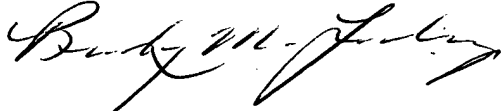
Therefore, it is concluded that Figure 9 was received in the Office on January 18, 2001.

The petition is granted.

Pursuant to petitioner's authorization, deposit account no. 11-1540 will be refunded the \$130.00 petition fee.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of January 18, 2001, and indicating in USPTO records that 11 sheets of drawings were present on filing.

Inquiries relating to this matter should be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.

A handwritten signature in cursive script, appearing to read "Beverly M. Flanagan".

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy